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Dated: 2/4/09

Signature: 
(Michael P. Furmanek)

Docket No.: 29488/38131
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:
J. R. Lewis

Application No.: 10/047,220

Confirmation No.: 5743

Filed: January 14, 2002

Art Unit: 3653

For: DUMP STATION APPARATUS AND
METHOD FOR FILLING STOCK ORDERS

Examiner: J. A. Shapiro

REPLY BRIEF

MS Reply Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is filed in response to the Examiner's Answer mailed December 10, 2008 in the above-referenced application.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Walgreen Co., a corporate entity, located at 200 Wilmot Rd., Deerfield, Illinois 60015. The assignment to Walgreen Co. is recorded at Reel/Frame 012772/0529.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

Claims 1-3, 5-9, 14-23, 39, and 43 are pending, rejected, and appealed. Claims 40-42 are currently withdrawn. Claims 4, 10-13, and 24-38 are canceled.

IV. STATUS OF AMENDMENTS AFTER FINAL

No amendments have been made to the claims after the final rejection mailed on December 28, 2007.

However, Appellants submitted a paper on February 26, 2008 entitled “Response After Final” arguing against the final rejections, as they pertain to pending claims 1-3, 5-9, 14-23, 39, and 43. These arguments were considered, as indicated in the Advisory Action, mailed March 21, 2008.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a dumping station (24) for use in a stock order filling system (10). The dumping station (24) comprises a collection area (16), a bin (28), an electronically controllable release latch (42), and a controller (50).

The collection area (16) includes a conveyor (16). (*See*, page 4, lines 1-2; and Figs. 1 and 2).

The bin (28) is disposed adjacent the conveyor (16) and has a receiving end (30), a discharge end (32), and an opening (e.g., shown in Fig. 7) extending between the receiving end (30) and the discharge end (32). (*See*, page 4, line 16; and Fig. 3). The receiving end (30) of the opening is adapted to receive articles. The bin (28) has a dump mode, in which articles in the bin (28) are discharged from the discharge end (32) of the opening onto the collection area (16), and a pick mode, in which the articles are retained in the receiving end (30) of the bin (28). (*See*, page 4, lines 9-24; and Fig. 3). The bin (28) is biased under the force of gravity toward the dump mode and is rotatable about an axis (26) and has a center of gravity (34) laterally offset from the axis (26) toward the discharge end (32). (*See*, page 4, lines 25-31; and Fig. 3).

The electronically controllable releasable latch (42) is selectively engageable with the bin (28) to selectively secure the bin (28) in the pick mode against the force of gravity. (*See*, page 5, lines 10-11; and Fig. 3). The latch (42) is responsive to a release signal to release the bin (28). (*See*, page 5, lines 17-19).

The controller (50) is operably coupled to the latch (42) and has a processor programmed to generate the release signal to release the latch (42). (*See*, page 8, lines 4-16). Upon the latch (42) releasing the bin (28), the bin (28) automatically switches from the pick mode to the dump mode under the force of gravity by rotating about the axis (26) thereby to discharge the articles in the bin (28) directly onto the conveyor (16). (*See*, page 4, lines 9-28; and page 5, lines 17-19). The processor is programmed to generate the release signal as a selected area of the conveyor (16) passes the dumping station (24). (*See*, page 8, lines 4-16).

Independent claim 15 is directed to a dumping station (24) for use in a stock order filling system (10) having a collection area (16). The dumping station (24) deposits articles onto the collection area (16). The dumping station (24) comprises a stationary support (38), a bin (28), a releasable latch (42), and a controller (50). (*See*, Fig. 3).

The stationary support (38) is permanently fixed against displacement relative to the collection area (16).

The bin (28) is hingedly mounted to the stationary support (38) for rotational motion relative to the stationary support (38). (*See*, page 4, lines 9-24; page 5, lines 3-9; and Fig. 3). The bin (28) comprises a receiving end (30), a discharge end (32), an opening (e.g., shown in Fig. 7) extending between the receiving end (30) and the discharge end (32), and a center of gravity (34) laterally offset from the stationary support (38) toward the discharge end (32) to bias the bin (28) under force of gravity toward a dump position. In the dump position, the discharge end (32) is proximal to the collection area (16) and articles placed in the bin (28) exit the discharge end (32) of the opening of the bin (28). (*See*, page 4, lines 9-24; and Fig. 3). The releasable latch (42) is positioned to hold the bin (28) against the force of gravity when manually placed in a pick position. (*See*, page 5, lines 10-11). In the pick position, articles placed in the receiving end (30) of the bin (28) remain in the article receiving end (30) of the bin (28). (*See*, page 4, lines 21-22).

The latch (42) is releasable to allow the bin (28) to pivot back toward the dump position and is responsive to a release signal to release the bin (28). (*See*, page 8, lines 4-16; and Fig. 3).

The controller (50) is operably coupled to the latch (42) and has a processor programmed to generate the release signal to release the latch (42). (*See*, page 8, lines 4-16). When the latch (42) is released, the bin (28) automatically moves from the pick position to the dump position under the force of gravity thereby to discharge articles from the discharge end (32) of the opening of the bin (28) onto the collection area (16). (*See*, page 4, lines 9-28; and page 5, lines 17-19).

Independent claim 39 is directed to a dumping system (24) for use in a stock order filling system (10) having a collection area (16). The dumping system (24) comprises first and second bins (28), first and second releasable latches (42), and a controller (50). (*See*, Figs. 3 and 7).

The first bin (28) has a receiving end (30), a discharge end (32), and an opening (e.g., shown in Fig. 7) extending between the receiving end (30) and the discharge end (32). The receiving end (30) of the opening is adapted to receive a first set of articles. The first bin (28) has a dump mode, in which the first set of articles in the first bin (28) are discharged from the discharge end (32) of the opening onto the collection area (16), and a pick mode, in which the first set of articles are retained in the first bin (28). (*See*, page 4, lines 9-24). The first bin (28) is biased under force of gravity toward the dump mode. (*See*, page 4, lines 25-31).

The first releasable latch (42) is positioned to retain the first bin (28) in the pick mode against the force of gravity, and is responsive to a first release signal to release the first bin (28). (*See*, page 5, lines 10-11).

The second bin (28) has a receiving end (30), a discharge end (32), and an opening (e.g., shown in Fig. 7) extending between the receiving end (30) and the discharge end (32), the receiving end (30) of the opening adapted to receive a second set of articles. The second bin (28) has a dump mode, in which the second set of articles in the second bin (28) are discharged from the discharge end (32) of the opening onto the collection area (16), and a pick mode, in which the second set of articles are retained in the second bin (28). (*See*, page 4, lines 25-31). The second bin (28) is biased under force of gravity toward the dump mode. (*See*, page 4, lines 25-31).

The second releasable latch (42) is positioned to retain the second bin (28) in the pick mode against the force of gravity, and is responsive to a second release signal to release the second bin (28). (*See*, page 5, lines 10-11).

The controller (50) is operably coupled to the first latch (42) and the second latch (42) and has a processor programmed to generate the first release signal to release the first latch (42) and the second release signal to release the second latch (42). (*See*, page 8, lines 4-16). When the first and second latches (42) are released, the first bin (28) and the second bin (28) automatically switch from the pick mode to the dump mode under the force of gravity

thereby to discharge the first set of articles in the first bin (28) and the second set of articles in the second bin (28) onto the collection area (16). (*See*, page 4, lines 9-28; and page 5, lines 17-19).

The collection area (16) comprises a conveyor (16). (*See*, page 4, lines 1-2; and Figs. 1 and 2).

The processor is programmed to generate the first release signal as a selected area of the conveyor (16) passes the first bin (28) to dump the first set of articles onto the selected area and is programmed to generate the second release signal as the selected area of the conveyor (16) passes the second bin (28) to dump the second set of articles onto the selected area. (*See*, page 8, lines 4-16).

Independent claim 43 is directed to a dumping station (24) for use in a stock order filling system (10). The dumping station (24) comprises a conveyor (16), a stationary support (38), a bin (28), a releasable latch (42), and a conveyor (16). (*See*, Fig. 3).

The stationary support (38) is permanently fixed against displacement relative to the conveyor (16).

The bin (28) is pivotably supported on top of the stationary support (38) and comprises a bottom wall (e.g., shown in Figs. 3 and 7), a rear wall (39) fixed to the bottom wall, opposing sidewalls (e.g., shown in Figs. 3 and 7) fixed to the bottom and rear walls, an open top (e.g., shown in Fig. 7), and an open front (e.g., shown in Fig. 7). The bin (28) is pivotable relative to the conveyor (16) between a pick mode for receiving articles through the open top, and a dump mode for discharging articles through the open front. (*See*, page 4, lines 9-24; and Fig. 3). In the pick mode, a first portion of the bottom wall that is located adjacent the open front is disposed above a second portion of the bottom wall that is located adjacent the rear wall (39). In the dump mode, the second portion of the bottom wall is positioned above the first portion of the bottom wall.

The releasable latch (42) is selectively engageable with the bin (28) to selectively secure the bin (28) in the pick mode against the force of gravity. (*See*, page 5, lines 10-11). The latch (42) is responsive to a release signal to release the bin (28). (*See*, page 5, lines 17-19).

The controller (50) is operably coupled to the latch (42) and has a processor programmed to generate the release signal to release the latch (42). (*See*, page 8, lines 4-16). Upon the latch (42) releasing the bin (28), the bin (28) automatically switches from the pick mode to the dump mode under the force of gravity. (*See*, page 4, lines 9-28; and page 5, lines 17-19).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3, 5-23, 39, and 43 are obvious over Emsley et al. (U.S. Patent No. 4,509,635) in view of Boyd (U.S. Patent No. 6,208,908).

VII. ARGUMENT

A. CLARIFICATION RE: STATUS OF AMENDMENTS

The Examiner's Answer indicates that the "Status of Amendments After Final" statement presented in the Appeal Brief dated September 23, 2008 is incorrect. Appellants have revised the "Status of Amendments After Final" statement herein to expressly state that no claim amendments have been made after the final rejection.

B. APPELLANT'S REPLY TO EXAMINER'S "RESPONSE TO ARGUMENT"

The subject matter of the present application includes a bin having a receiving end, a discharge end, and an opening extending between the two ends such that articles are received into and discharged from the same opening in the bin. In the Appeal Brief, Appellant argued that neither of the cited references, i.e., Emsley nor Boyd, discloses or suggests a bin that has a common opening that defines both a receiving end and a discharge end, as claimed. Rather, each discloses a bin having receiving and discharge openings arranged on opposite ends of the bin, thereby defining a bin that essentially resembles a chute or tube.

In response to Appellant's arguments, the Examiner's Answer asserts that the word "opening," as used in the claims of the pending application, denotes the "volume" of the container. *See*, Examiner's Answer, page 8, lines 14-15 and page 9, lines 7-10. Thus, the examiner interprets the internal "volume" of each of the bins disclosed by Emsley and Boyd as an "opening" to satisfy the claimed limitations.

Appellant respectfully submits that this interpretation of Emsley and Boyd is improper because (1) it is against the understanding garnered by a person having ordinary skill in the art; and (2) it is against the express teachings of both Emsley and Boyd.

A person having ordinary skill in the art would not equate the "volume" of a container to an "opening" of a container. The "opening" of a container merely includes an aperture that defines an access point to the internal volume of the container; and therefore cannot be equated to the internal volume itself. According to this proper understanding of the term "opening," a person having ordinary skill in the art understands that each of Emsley and Boyd in fact include two "openings;" one for receiving articles, and the other for discharging articles. Thus, the interpretation and application of Emsley and Boyd is improper.

The application of Emsley and Boyd is also improper because the Examiner's Answer interprets each reference against their express teachings. Specifically, both references describe the respective bins as including two "openings" located at opposing receiving and discharging ends. For example, with respect to the top of the bin, Emsley states that "[t]he bins are pivotally mounted on their respective brackets so as to be angularly displaceable about an axis extending lengthwise of the conveyor between positions determined by stops 8 in which *the opening* of each bin lies on opposite sides respectively of the conveyor." Column 2, lines 53-58. Boyd defines its receptacle 12 as having an "*open* top 26," which clearly constitutes an opening, and a "discharge *opening* 30" at its bottom. Column 4, lines 25-26. Therefore, the "openings" of Emsley and Boyd expressly constitute access points to their internal volumes, and not the internal volumes themselves. As such, the interpretation set forth in the Examiner's Answer is improper. The examiner is not free to interpret a reference against its express teachings. Moreover, the express teachings of Emsley and Boyd further support the Appellants position set forth above, that a person having ordinary skill in the art would understand that an "opening" of a bin or container does not constitute the internal volume of the container, but rather, merely an aperture or access point to the internal volume.

In light of the foregoing, Appellant respectfully submits that the rejections set forth in the final Office Action are improper and should be reversed.

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C. CONCLUSION

No fees are believed to be necessary for proper entry and consideration of this Reply Brief. However, in the event any additional fees are necessary, kindly charge the cost thereof to Deposit Account No. 13-2855, Order No. 29488/38131.

Dated: February 4, 2009

Respectfully submitted,

By



Michael P. Furmanek

Registration No.: 58,495

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

Telephone: (312) 474-6300

Facsimile: (312) 474-0448

Attorney for Appellants

CLAIMS APPENDIX

1. (previously presented) A dumping station for use in a stock order filling system, the dumping station comprising:

a collection area including a conveyor;

a bin disposed adjacent the conveyor, the bin having a receiving end, a discharge end, and an opening extending between the receiving end and the discharge end, the receiving end of the opening adapted to receive articles, the bin having a dump mode, in which articles in the bin are discharged from the discharge end of the opening onto the collection area, and a pick mode, in which the articles are retained in the receiving end of the bin, the bin being biased under force of gravity toward the dump mode, the bin being rotatable about an axis, the bin having a center of gravity laterally offset from the axis toward the discharge end;

an electronically controllable releasable latch selectively engageable with the bin, the latch selectively securing the bin in the pick mode against the force of gravity, the latch being responsive to a release signal to release the bin; and

a controller operably coupled to the latch and having a processor programmed to generate the release signal to release the latch, wherein upon the latch releasing the bin, the bin automatically switches from the pick mode to the dump mode under the force of gravity by rotating about the axis thereby to discharge the articles in the bin directly onto the conveyor;

wherein the processor is programmed to generate the release signal as a selected area of the conveyor passes the dumping station.

2. (original) The dumping station of claim 1, in which the releasable latch comprises an electromagnet.

3. (original) The dumping station of claim 1, in which the processor is programmed to assign pick orders to the dumping station.

4. (canceled)

5. (previously presented) The dumping station of claim 1, further comprising a lid attached to the receiving end of the bin, the lid being movable between an active position away from the opening, to provide a visual indication that more articles are to be placed in the bin, and an inactive position covering at least a portion of the opening, to provide a visual indication that no more articles are to be placed in the bin.

6. (previously presented) The dumping station of claim 1, further comprising a support shaft, wherein the bin is pivotably mounted on the support shaft, the bin having a center of gravity laterally offset from the support shaft so that the bin is biased to a dump position corresponding to the bin dump mode, the bin being rotatable to a pick position corresponding to the bin pick mode.

7. (original) The dumping station of claim 6, in which a weight is attached to the bin near the discharge end to laterally shift the center of gravity of the bin toward the discharge end.

8. (original) The dumping station of claim 6, further comprising a dump pedestal positioned to engage the bin in the dump position, and a pick pedestal positioned to engage the bin in the pick position, the pick pedestal carrying the releasable latch.

9. (original) The dumping station of claim 8, in which the dump pedestal is oriented to direct articles onto the collection area.

10-13. (canceled)

14. (original) The dumping station of claim 1, in which the bin is manually placed in the pick mode.

15. (previously presented) A dumping station for use in a stock order filling system having a collection area, the dumping station depositing articles onto the collection area, the dumping station comprising:

a stationary support permanently fixed against displacement relative to the collection area;

a bin hingedly mounted to the stationary support for rotational motion relative to the stationary support, the bin comprising a receiving end, a discharge end, an opening extending between the receiving end and the discharge end, and a center of gravity laterally offset from the stationary support toward the discharge end to bias the bin under force of gravity toward a dump position, in which the discharge end is proximal to the collection area and articles placed in the bin exit the discharge end of the opening of the bin;

a releasable latch positioned to hold the bin against the force of gravity when manually placed in a pick position, in which articles placed in the receiving end of the bin remain in the article receiving end of the bin, the latch being releasable to allow the bin to pivot back toward the dump position, the latch being responsive to a release signal to release the bin; and

a controller operably coupled to the latch and having a processor programmed to generate the release signal to release the latch, wherein the bin automatically moves from the pick position to the dump position under the force of gravity thereby to discharge articles from the discharge end of the opening of the bin onto the collection area.

16. (original) The dumping station of claim 15, in which the releasable latch comprises an electromagnet.

17. (original) The dumping station of claim 15, further comprising a dump pedestal positioned to engage the bin discharge end in the dump position, and a pick pedestal positioned to engage the bin in the pick position, wherein the pick pedestal carries the releasable latch.

18. (original) The dumping station of claim 17, in which the dumping pedestal is oriented to direct articles onto the collection area.

19. (original) The dumping station of claim 15, in which the processor is programmed to assign pick orders to the dumping station.

20. (previously presented) The dumping station of claim 15, in which the is programmed to generate the release signal as a selected area of the conveyor passes the dumping station.

21. (original) The dumping station of claim 15, in which the support is positioned below the bin.

22. (original) The dumping station of claim 15, in which a weight is attached to the bin near the discharge end to laterally shift the center of gravity of the bin toward the discharge end.

23. (previously presented) The dumping station of claim 15, further comprising a lid attached to the receiving end of the bin, the lid being manually movable between an active position away from the opening, to provide a visual indication that more articles are to be placed in the bin, and an inactive position covering at least a portion of the opening, to provide a visual indication that no more articles are to be placed in the bin.

24 - 38. (canceled).

39. (previously presented) A dumping system for use in a stock order filling system having a collection area, the dumping system comprising:

a first bin having a receiving end, a discharge end, and an opening extending between the receiving end and the discharge end, the receiving end of the opening adapted to receive a first set of articles, the first bin having a dump mode, in which the first set of articles in the first bin are discharged from the discharge end of the opening onto the collection area, and a pick mode, in which the first set of articles are retained in the first bin, the first bin being biased under force of gravity toward the dump mode;

a first releasable latch positioned to retain the first bin in the pick mode against the force of gravity, the first releasable latch being responsive to a first release signal to release the first bin;

a second bin having a receiving end, a discharge end, and an opening extending between the receiving end and the discharge end, the receiving end of the opening adapted to receive a second set of articles, the second bin having a dump mode, in which the second set of articles in the second bin are discharged from the discharge end of the opening onto the collection area, and a pick mode, in which the second set of articles are retained in the second bin, the second bin being biased under force of gravity toward the dump mode;

a second releasable latch positioned to retain the second bin in the pick mode against the force of gravity, the second releasable latch being responsive to a second release signal to release the second bin; and

a controller operably coupled to the first latch and the second latch and having a processor programmed to generate the first release signal to release the first latch and the second release signal to release the second latch, wherein the first bin and the second bin automatically switch from the pick mode to the dump mode under the force of gravity thereby to discharge the first set of articles in the first bin and the second set of articles in the second bin onto the collection area;

wherein the collection area comprises a conveyor, and the processor is programmed to generate the first release signal as a selected area of the conveyor passes the first bin to dump the first set of articles onto the selected area and is programmed to generate the second release signal as the selected area of the conveyor passes the second bin to dump the second set of articles onto the selected area.

40. (withdrawn) The dumping station of claim 1, further comprising a storage rack disposed adjacent to the bin.

41. (withdrawn) The dumping station of claim 40, wherein the storage rack includes an indicator.

42. (withdrawn) The dumping station of claim 41, wherein the controller is operably coupled to the indicator, wherein the controller directs the indicator to indicate the articles to be picked from the shelf section.

43. (previously presented) A dumping station for use in a stock order filling system, the dumping station comprising:

a conveyor;

a stationary support permanently fixed against displacement relative to the conveyor;

a bin pivotably supported on top of the stationary support, the bin comprising a bottom wall, a rear wall fixed to the bottom wall, opposing sidewalls fixed to the bottom and rear walls, an open top, and an open front,

the bin pivotable relative to the conveyor between a pick mode for receiving articles through the open top, and wherein a first portion of the bottom wall that is located adjacent the open front is disposed above a second portion of the bottom wall that is located adjacent the rear wall, and a dump mode for discharging articles through the open front, and wherein the second portion of the bottom wall is positioned above the first portion of the bottom wall;

a releasable latch selectively engageable with the bin, the latch selectively securing the bin in the pick mode against the force of gravity, the latch being responsive to a release signal to release the bin; and

a controller operably coupled to the latch and having a processor programmed to generate the release signal to release the latch, wherein upon the latch releasing the bin, the bin automatically switches from the pick mode to the dump mode under the force of gravity.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.